



Colloquium Brief

Strategic Studies Institute

U.S. Army War College and
New Mexico State University



NEW MEXICO STATE UNIVERSITY

BORDERS: TECHNOLOGY AND SECURITY – STRATEGIC RESPONSES TO NEW CHALLENGES

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KEY INSIGHTS:

- The concept of a border as a line on the ground is insufficient for today's realities.
- The concept of border security obscures larger issues of control and humane management.
- The European Union approach to interior border management differs from that of exterior border management and may offer a useful model for insight into alternative policies and practices.
- While the threat from terrorists is real, the over-security with regard to the border control process has generated greater problems than it may have solved.
- A great deal of room remains for improving management of the issues in both theory and practice, including the effective use of technology; however, this is ultimately a human issue.
- Practitioners and theorists see very different dimensions of the issues, but acknowledge the utility of colloquia such as this as a means to bring about unity of purpose and practice.

The New Mexico State University Government Department, in cooperation with the Strategic Studies Institute, U.S. Army War College, conducted a 2-day colloquium, "Borders: Technology and Security – Strategic Responses to New Challenges," on April 1-2, 2008. Approximately 60 invitees attended the event, which took place in Las Cruces, New Mexico. The participants ranged from New Mexico State University and U.S. Army War College faculty to U.S. Departments of Justice, Homeland Defense, and Defense officials; USCENTCOM, USNORTHCOM JTF-NORTH; U.S. Coast Guard Academy; foreign scholars from Mexico, France, Israel, the Netherlands, United Kingdom, Denmark, and Canada; representatives of the U.S. Border Patrol Service and the U.S. Congress; Migration Policy Institute; and graduate students from New Mexico State University.

Session topics included "Rethinking Security, Borders, and Technology after 9/11: New Theories and Conceptual Frameworks," "The Changing Role of the Military in Border and Homeland Security," "Homeland and Border Security: Comparative Perspectives," and "Legal and Normative Dimensions of Homeland and Border Security." John Agnew, UCLA; Michael O'Hanlon, The Brookings Institution; and Susan Ginsburg, Migration Policy Institute, were featured speakers.

When the presenters begin by challenging the definitions of the words in the colloquium's title, what follows usually will be lively and interesting. The first speaker, Mathias Albert, led off by chal-

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lenging the notion of a border and of security as binary concepts; for example, that one can be on one side of the border or the other, and a border can be secure or not. Instead, he posited the notion of “functionally defined distinctions.” A border is both a place of separation and connection, intended to be a barrier to the unwanted—particularly criminal, illegal, or specifically terrorist entry—but simultaneously a connecting point for legitimate trade, services, and knowledge. He suggested that “understanding of territorial boundaries must proceed on the basis of an understanding that within world society the prime form of differentiation is functional (into spheres of politics, law, economy, etc.). . . .” This approach establishes a “more process-oriented rather than a goal . . . oriented approach toward security. . . .” This requires rethinking of the concept of border, and particularly of security, and suggests replacement of the “security” concept with one of “risk management.” Current political conditions make movement toward these alternative, more realistically relevant interpretations particularly difficult.

Matthew Coleman argued that the post-NAFTA environment has seen “the migration of immigration controls inwards to formally non-border spaces.” The post-911 environment under the 287(g) ruling has likewise shifted interior enforcement activities to nonfederal agents. However, local sanctuary laws, reminiscent of the slave Underground Railway system before the Civil War and other periods of enhanced social consciousness, put federal and local law enforcement at odds. This problem was similarly highlighted in the SSI-North Carolina Central University Conference in March 2008, at which the topic of selective suspension of the rigorous application of federal law was discussed in a local context. As Coleman concluded, “The upshot is that a once relatively predictable enforcement terrain has been transformed into an uneven topography of incompatible immigration laws and highly variable enforcement practices.”

Ray Koslowski presented the first techno-centric paper, evaluating the “Smart Border of the Future,” the Secure Border Initiative and U.S.-VISIT initiatives and their supporting technologies. These are all designed to create “virtual”

borders through the implementation of a Revolution in Border Security conceptually equivalent to the so-called Revolution in Military Affairs. The system’s effectiveness, he argued, relies upon a number of assumptions that are badly flawed and require cost and political factors that are likely insupportable. Following an earlier theme, he pointed out that 100 percent security requires 100 percent willingness to cooperate. Obviously those with criminal intent—the objects of interdiction—will not cooperate.

John Agnew’s lunch address asked “Why Do Borders Mean So Much?” He began by questioning “why borders matter as facts on the ground . . . why they are inherently problematic . . .” and concluded with suggestions to move the dialogue on these two questions forward. He noted that the 9/11 terrorists all entered the United States legally from friendly countries through airports of entry, noncontiguous “borders” that “serve vital economic functions.” That expands the idea of border from the “security-identity nexus” to a place of “sorting and sifting goods and people. . . .”

He concluded that “Until political community is redefined in some way as not being co-existent with nation, we will be stuck with business as usual. In political vision as in practice, therefore, borders remain as ambiguously relevant as ever.”

David McIntyre, Jerry Welsh, and Bert Tussing presented a series of policy focused briefings—former military officers do that in lieu of reading papers—replete with slides. Form notwithstanding, each laid out the manner by which the U.S. Government makes policy, how it has gone about adjusting policy to deal with terrorists in particular, and how each department is either enabled or restricted in its tasks. One major focus of this policy review responded to the allegation that the government is militarizing the border by employing soldiers as border guards. David McIntyre established the hard fact that the cost of manning America’s borders would require 1.2 million people regardless of department—and that is for an 8-hour shift. That figure was later translated into a practical requirement for something over five million border security and management people—slightly less than the eight million-person army in World War II. The real issue was employ-

ment of Army soldiers, and all three attempted to clarify the fact that soldiers on Active Federal service are prohibited from performing any form of police duties whatsoever unless authorized by the President of The United States under extraordinary conditions of civil collapse or rebellion, where the civil authorities are unable to exercise civil authority. National Guard Soldiers, operating under the control of the State Governor, may exercise police functions IAW posse comitatus.

The second day began with comparative perspectives from Europe, Israel, and Mexico. Thomas Diez led off by noting that "The nature of borders has fundamentally changed over the past few decades in the context of European integration and the Schengen process." The integration process has led to a sharp decline of border focused violence. Second, this openness has led to charges of insufficient security particularly as related to terrorists. Third, as interior borders have been neutered, European Union (EU) external borders have gained importance. [This is mildly reminiscent of the American process of moving from semi-independent colonies into a united, singular body.] He concluded that arguments about borders in the EU today are more "part of a feeling of unease as much as a struggle about identity." He further concluded that there does not appear to be much of a security differential between Schengen and non-Schengen countries.

David Newman addressed "Contemporary Border Securitization in, and Emanating from, the Middle East." Whereas globalization of business and communications set in motion major movement toward deterritorialization, or a borderless world, 9/11 and what is perceived as the advent of global terrorism reversed that trend. Include refugee movements and the humanitarian needs associated with them and border security becomes more complex. Each border now seems to demand its own contextually-specific consideration with disruptive impacts on discussion of border policy worldwide.

Monica Serrano addressed "U.S.-Mexico Security Relations" from a Mexican perspective. Her presentation attempted to demonstrate "how the tacit understandings that regulated U.S.-Mexico security relations during the Cold War era have been severely undermined by the rise of amorphous and nontraditional threats." Her intent was to ask whether the new security system works any better in dealing with the threat and/or the people in the middle.

Michael O'Hanlon, the second day's luncheon speaker, addressed the question of whether Iraq or Homeland Security should be receiving more funding support. Much of his presentation focused on the conditions in Iraq and prospects for the future.

Kathleen Staudt addressed "Legal and Normative Dimensions of Homeland and Border Security." "Border security has become the narrow watchword phrase of fearful, bureaucratic, and bipartisan political campaign sloganizing, with a private industrial and commercial sector eagerly seeking contracts to work in public-private partnerships to 'control' the border." The inflamed rhetoric surrounding conditions and policies concerning our southern border in particular include the demand for low-cost labor, potentially leading to exploitation; human rights issues, specifically women's rights; and transborder crime and violence quite apart from any consideration of terrorist transit. She spoke most passionately of immigrant death rates now in excess of 4,000 (since 1993) resulting from human-insensitive dimensions of broad and specific policy decisions. "Border security should encompass life with dignity, living wages, and basic public security," she concluded.

Vida Bajc addressed "Surveillance and Ethics: A Sociological Understanding." Her concern is that the "methodological and routine accumulation of information about different aspects of the life of the individual leaves them continuously exposed to the media of surveillance . . . [and as technology advances] enables ever more detailed and uniquely personal information to be collected from multiple sources. . . ." The process that follows reduces a human being to a data-set to be manipulated as a dehumanized entity. The consequences of this process have multiple effects on real people that need serious and deep discussion and debate.

David Jacobsen, the final panelist, dealt with "International Law, Human Rights, and Border Control." He noted that "under international human rights law, there is nothing precluding

border control per se, and indeed human rights criteria can lead to stricter control in the flows of people across borders. . . . [however] Human rights legally limit the qualitative criteria of border control . . . but . . . do not determine the quantitative aspect. . . ." He concluded that "the issue facing policymakers is clearly not only legal." The reason is multifaceted, as in the European case where public pressure for tighter border restrictions is at the point of violating international laws on the subject.

The final speaker was Susan Ginsburg of the Migration Policy Institute. She reviewed and synthesized most of the presentations with a deft hand and a sharp eye toward all the salient issues, and related them to work in progress in the Washington policy arena. Her comments on technology were particularly insightful as her organization had recently completed a study of the need for integration of metrics into the border control processes for quality and performance control as well as customer assistance. Given the pressures to process large numbers of visas, for example, no mechanism currently exists to correlate visa issues with crossing site rejections to determine the cause, nor correspondingly to permit appeal or redress in cases of errors. She also addressed in detail some of the negotiations between EU countries and the United States. Within the EU community, visas are not required, but no visa equals no oversight and creates security problems for the United States. She noted that the Director of National Intelligence has reported that most of the threat to the United States emanates from visa-waiver countries which are also the greatest visa violators. Her remarks concluded a well-planned, well-executed colloquium from which papers will become available in due course.

The views expressed in this brief are those of the author and do not necessarily reflect the official policy or position of the Department of the Army, the Department of Defense, or the U.S. Government. This colloquium brief is cleared for public release; distribution is unlimited.

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